



MEMO END OF

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BY HAND DELIVERY

Honorable Lewis A. Kaplan
United States District Judge
Southern District of New York
500 Pearl Street, Rm. 1310
New York, New York 10007-1312

USDS SDNY	May 1, 2008	RECEIVED
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Re: Costa v. City of New York, et al.,
07 Civ. 8032 (LAK)(AJP)
Law Dep't. No.: 2007-029207

Dear Judge Kaplan:

I am an Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, attorney for defendants in the above-referenced action in which plaintiff asserts a "class of one" theory of liability under the Equal Protection Clause. I write on behalf of the parties to this action to request that the parties be given an additional month in which to complete certain outstanding discovery concerning a number of audiotapes created by plaintiff in this action.

On April 23, 2008, during the deposition of plaintiff, defendants learned for the first time that plaintiff had tape recorded numerous conversations with defendants over the course of several weeks, including a conversation with Chief Joseph Fox, a named defendant in this action. Although it appears that plaintiff may use or rely on those audiocassettes in support of his claims, the audiocassettes were not turned over with the plaintiff's initial disclosures. Plaintiff's counsel is having one of the audiocassettes copied this weekend, and we expect to receive it sometime next week. There are also additional tapes which plaintiff has in his possession but which have not been turned over to his counsel. In the event that such tapes are not made available to defendants, defendants intend to ask the Court for an order compelling their production, or, in the alternative, barring plaintiff from offering any testimony as to any subject or person that may have been covered on these audiocassettes.

HONORABLE LEWIS A. KAPLAN

United States District Judge

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Depending on the content of the audiocassettes plaintiff is turning over, the defendants may need to re-take plaintiff's deposition, and perhaps take additional discovery from plaintiff concerning these audiocassettes. Additional time is also needed because I am waiting for authorization from my client to produce to plaintiff several audiocassettes plaintiff requested, and which were generated during the investigation of plaintiff by the NYPD. Therefore, we respectfully request an extension of one month, from May 1, to June 2, 2008, to complete discovery. The parties further request that they be given one month from the date discovery is completed, or until July 2, to submit any dispositive motions and a joint pre-trial order. This is the parties' second request for an amendment to the case management plan, and the parties' prior request was granted by the Court.

We thank the Court for its consideration of this request.

Respectfully submitted,


Ivan A. Mendez, Jr.
Assistant Corporation Counsel

cc: David M. Fish
(By Regular Mail)

MEMO ENDORSED

Granted No more
No extensions.
SO ORDERED
LEWIS A. KAPLAN, USDI
5/6/08